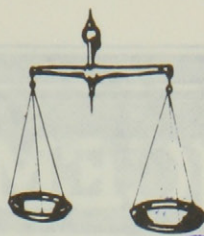


# Quid Novi



VOL. IX NO. 3

McGILL UNIVERSITY FACULTY OF LAW  
FACULTE DE DROIT DE L'UNIVERSITE MCGILL

October 11, 1988  
le 11 Octobre 1988

## Combattre avec sa conscience

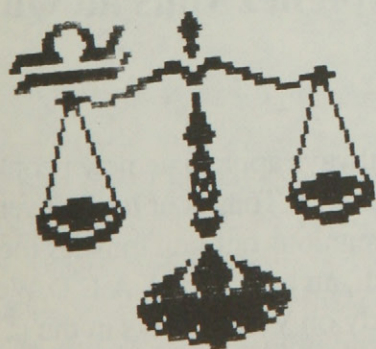
Isabelle Courville, B.C.L.I

Que feriez-vous si on entreposait des déchets nucléaires derrière chez vous?

En 85-86 le gouvernement américain se proposait d'installer un dépotoir nucléaire dans le Vermont, aux portes du Lac Memphrémagog et de l'Estrie. Douze mille citoyens de cette région, fortement opposés au projet, ont réussi à faire reculer le gouvernement américain!

Dans une présentation colorée aux membres de "Lawyers for Social Responsibility/Avocats pour une conscience sociale", Me Peter Welton nous a fait part de ce combat et de cette grande victoire.

En introduction, le journaliste Andy Orkin nous a entretenu de l'industrie nucléaire florissante(!) du Canada. Saviez-vous que le Canada produit 30% de l'uranium utilisé partout au monde? Pour faire de l'énergie mais aussi des armes...



### Nuclear waste seminar

by Michelle Marsellus, LL.B. I

Is Canada, the supposed "white knight" of nuclear non-proliferation, actually fuelling the nuclear arms race? At the September 28 seminar about nuclear waste presented by Lawyers for Social Responsibility, former McGill law student Andrew Orkin drew the connection between uranium, its radioactive waste and the production of nuclear weapons. Canada, he said, is "a world-class source of nuclear military material".

Canada produced 31% of the world's uranium in 1986. "As a world class producer of uranium, Canada is a world class producer of nuclear waste," said Orkin. For technical reasons only one per cent of the ore extracted from uranium mines becomes yellowcake suitable for reactor fuel. The remaining 99%, containing 85% of the mined radioactivity, has to be discarded as waste. It is deposited near the mine site, said Orkin in ponds which even if they are state-of-the-art are lined only with polythene and clay.

The yellowcake is then sent to a number of enrichment plants around the world, all of which are to be found in weapons states. Only one pound of enriched uranium is pro-

duced for shipment out of every six pounds of yellowcake. The remaining five pounds remain at the enrichment plant. Unlike the rules covering the enriched uranium, Canadian law does not require any accounting for the use of the depleted portion. According to Orkin, much of this leftover uranium goes into military reactors for transformation into plutonium from which bombs are made.

In fact, said Orkin, some Canadian uranium is sent to the Soviet Union for enrichment. He suggests this leaves open the possibility that some of the nuclear weapons aimed at North America might contain Canadian uranium. Canada also supplies most of the depleted uranium used by the U.S. and France.

Orkin believes the waste produced during the nuclear fuel cycle from initial mining to removal from a reactor can never be safely disposed of with existing technology. Even if the production of this waste were to stop tomorrow, he said, "mankind would still be knee-deep in radioactive crud."

Can anything be done to solve this problem? Orkin called for an immediate moratorium on the production of nuclear waste. He suggested that those currently producing the waste might then be put to work finding ways to dispose of it. In addition, he believes the need for nuclear energy could be eliminated by increased energy

cont'd on p.4





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# ANNOUNCEMENTS

## Le Groupe francophile

Le groupe francophile se rencontrera le mardi,  
11 octobre à 17:00 au local 203

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## Transcript Verification

To the attention of all students  
First Term Transcript Verification

All students must verify their transcript at  
Students Affairs Office  
between 10:00 a.m. and 3:00 p.m.  
between October 12 and October 21.

Graduating students are especially urged to  
verify their transcripts immediately to ensure  
they have all the necessary degree require-  
ments.

Your compliance in verifying your record as  
early as possible will ensure immediate proc-  
essing of corrections.

\*\*\*\*\*

## Textbook Purchases

PLEASE BE ADVISED THAT THE FOL-  
LOWING BOOKS HAVE TO BE RE-  
TURNED TO THE PUBLISHERS ON OC-  
TOBER 24, 1988. IF YOU NEED ANY OF  
THOSE BOOKS, PLEASE PURCHASE  
THEM BEFORE THAT DATE.

### Editions Yvon Blais:

- Précis de contentieux administratif
- Les obligations
- La responsabilité civile délictuelle
- L'arbitrage commercial international
- Les codes civils, 1988

### Wilson & Lafleur:

- Code criminel, F.M.
- Codes civils, F.M.
- Les actes du 1er colloque sur l'arbitrage  
international
- La compagnie au Québec, aspects  
juridiques, 1984
- Codes civils judico, 1988-89
- Codes du travail, F.M.

### Editions Thémis:

- Principaux arrêts en assurance
- Théorie des obligations

### Editions Gaëtan Morin:

- Chevette & Marx, Droit constitution-  
nel.

\*\*\*\*\*

## Concert for Bangladesh Thursday October 13th, 4:30pm

The Thursday Coffeehouse this week  
features live entertainment and much  
more!! Sponsored by Lawyers for Social  
Responsibility, the proceeds from the beer  
and cookies sales will go to support two  
very worthwhile causes: Half will go to the  
Bangladesh Flood Relief Fund and half will  
go to an initiative, in coordination with  
Physicians for Social Responsibility, to  
provide every high school and CEGEP in  
Canada with a copy of Simard's book  
Global Military Expenditures, 1988. The  
line-up of live talent is truly awesome,  
including our beloved Dean Rod, Prof.  
Boodman and friends, The Cool Monsoons,  
Diana Young and Rob Campbell, and Terry  
Pether, to name just a few! Beer, wine,  
soft drinks and delicious food will be  
served, at the usual low low price.... We  
encourage all faculty staff and students to  
attend, in the Common Room, starting in  
the late afternoon.

## McGill Faculty of Law Yearbook

Last year we published the first ever fac-  
ulty of law yearbook. It was a great  
success. This year we want to repeat the  
performance. To do that we need you!

Anyone interested in helping please come  
to our 1st meeting Wednesday, October  
12, 1988 at 1:00 P.M. in room 102.

Tout le monde est bienvenu! Les  
présidents de classe sont tenus d'être  
présents.

\*\*\*\*

## Computer Seminars

Computer seminars every Wednesday  
from 2 to 5 pm. Sign up in advance at  
SAO and meet at the circulation desk on  
the fourth floor of the library. Everyone  
welcome!

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## Join the Quid!

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## Joignez vous au Quid!

We always appreciate new people and  
new styles. Tous sont les bienvenus!  
Les réunions ont lieu tous les mercredis  
à midi, au bureau de l'A.E.D. We meet  
weekly on Wednesdays in the L.S.A.



# DEAN MACDONALD'S OPENING ADDRESS

(Last week, the *Quid Novi* published the first half of Dean MacDonald's opening address to the first year classes. The concluding portion of that speech follows.)

Vous constaterez que nos professeurs proviennent de plusieurs pays à travers le monde: les États-Unis, la France, la Belgique, la Yougoslavie, les Pays-Bas, la Roumanie, l'Italie, l'Angleterre, la Nouvelle-Zélande et l'Australie. Cette vocation internationale se reflète également chez nos étudiants, en provenance de toutes les provinces canadiennes, et de plusieurs pays étrangers. Mille cinq cents autres étudiants ont demandé une place; vous êtes les 150 qui furent acceptés. Vous avez des formations diverses: en sciences, lettres, gestion, génie et musique. Quelques-uns possèdent déjà des maîtrises. Vous êtes un tiers francophone, deux-tiers anglophone; la moitié de chaque sexe. Quelques-uns sont au début de la vingtaine, quelques autres ont au-delà de trente ans.

Mais vous partagez tous avec nous, le corps professoral, le désir d'exceller. Nous croyons que tout le monde s'enrichit au contact d'expériences diverses et pleinement partagées. Et je suis sûr que, comme étudiants, vous saurez profiter de l'occasion qui s'offre à vous: travailler avec un groupe de professeurs dont chacun veut lui-même exceller à sa manière - que ce soit dans ses recherches, son mode d'enseignement, ses objectifs pédagogiques ou sa production scientifique.

These last points lead me to consider with you briefly some of the challenges confronting the law today. As students and professors, together we face the challenge of designing legal institutions and procedures to ensure that our world is not destroyed — be this by nuclear war, or what is now more likely, by an environmental crisis. We face the challenge of identifying and structuring the components of a truly effective international law of human

rights. And we face the challenge of recognizing and eliminating the legal barriers to equality which have for too long stigmatized native Canadians, immigrants, the poor and perhaps subtly, women.

But let me sound a note of caution. Over the past half century, it has been common to describe the lawyer as a social engineer: as an expert who may be called in to solve any problem confronting society. Yet this image is now somewhat tarnished. For we have discovered, to our dismay, that law cannot make all people healthy, make them love each other, make the poor rich, and end discrimination. Sadly, it seems, that when called in aid of some noble social purpose, the law has —

far from solving problems — often exacerbated them.

In this paradox, I believe, lies a clue to understanding the career which you have chosen. The law is not merely a tool; nor is the lawyer merely an amoral technician. Let me pursue this theme for a moment.

If we were confronted with a particular social problem (say the human equivalent of holding two pieces of wood together) we know that a screw and a screwdriver, a hammer and nails, and glue and clamps are each plausible means for achieving our purpose. Understanding the advantages and disadvantages of each combination allows us to deploy these instruments to optimal advantage.

cont'd on p.4

## An open letter to law students

October 1st, 1988

Summer "vacation" is a wonderful time.... AAhhh, yess, I remember it well! One actually has the time to read books, to relax, to reflect on how Law School tries to train us and to shape us. Occasionally, the summer's activities can shed light on the school year to come: in August, I started reading *The Man Without Qualities*, by Robert Musil. The following passage, right at the beginning of the book, seemed of considerable relevance to our "pursuit" here at the Faculty of Law:

But if there is such a thing as a sense of reality - ... - then there must also be a something that one can call a sense of possibility. Anyone possessing it does not say, for instance: Here this or that has happened, will happen, must happen. He uses his imagination and says: Here such and such might, should or ought to happen. And if he is told that something is the way it is, then he thinks: Well, it could probably just as easily be some other way. So the sense of possibility could be defined outright as the capacity to think how everything could 'just as easily' be, and to attach no more importance to what is than to what is not.

cont'd on p.5



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### Opening Address cont'd from p.3

But we would also understand that the use of each commits us to a relatively fixed course of future conduct. If you have ever glued a cabinet you later have to disassemble quickly, you learn the relative merits and demerits of screws and glue. Our legal institutions are much like a carpenter's tools. They are more than mere instruments; they free us to create efficiently, but at the same time they limit our creations. Recognizing then that moral choice is present in all our legal decisions is a first step in our quest for justice.

Laissez-moi pousser cette analogie plus loin. Tout comme le menuisier, nous disposons de plusieurs moyens pour accomplir certaines tâches plus ou moins précises; mais il arrivera parfois que tous les moyens à notre disposition soient impuissants pour nous permettre d'atteindre l'objectif fixé. Un tournevis fait parfaitement l'affaire avec des vis, peut à la rigueur servir de ciseau et même, à la limite faire office de marteau, mais on ne pourra jamais s'en servir pour remplacer un niveau. Les instruments dont se sert l'avocat, ou plus généralement le juriste, tout comme les outils qu'utilise un menuisier, sont conçus pour certaines fins et peuvent causer de véritables ravages lorsqu'on s'en sert mal.

Une part importante du travail du juriste consiste à savoir choisir avec discernement les moyens d'intervention ou de non-intervention les plus adéquats pour résoudre les problèmes qu'on lui soumet. C'est surtout à ce titre qu'on peut tirer grand profit du droit comparé et de l'étude des deux grandes traditions juridiques que sont les nôtres. Si un jour vous choisissez de pratiquer le droit, vos clients vous demanderont de rédiger des contrats, former des sociétés, arrêter les dispositions d'une convention matrimoniale ou d'un testament, négocier avec des organismes gouvernementaux et représenter des clients devant les tribunaux. Pour réussir dans des tâches aussi diverses, il faudra non seulement que vous vous soyez familiarisés avec les institutions juridiques mais aussi que vous ayez appris à connaître les limites du pouvoir que le droit exerce sur la réalité. Il faut à tout prix savoir s'affranchir, le moment venu, des catégories juridiques qui s'imposent à l'esprit pour reformuler de façon créative le problème

que l'on est appelé à résoudre. Ce genre de reformulation constitue probablement la forme la plus élevée du travail juridique, à la fois créateur et rigoureux. Il est le fruit d'un apprentissage que ne finit jamais. Voilà d'ailleurs pourquoi vous entrez à compter d'aujourd'hui au sein de ce groupe de personnes qui, comme mes collègues et moi, consacrent leur temps à l'étude du droit.

En terminant, j'aimerais vous rappeler que votre formation juridique ne cesse pas le jour où vous quittez la Faculté. Vous continuerez d'apprendre même après votre départ. Nous ne prétendons pas, en quatre ans, vous enseigner tout ce qu'il faut savoir. Nous ne pouvons que vous offrir les éléments essentiels pour un processus d'auto-formation future, et vous donner le goût de poursuivre ce processus. Dès aujourd'hui, vous deviendrez juriste à la recherche du savoir, pour le reste de votre vie: que vous choisissiez une carrière de professeur, la profession d'avocat ou de notaire, la fonction publique, ou (comme plusieurs de nos diplômés) le monde des affaires.

However you choose to employ your legal education, you will find your legal career, commencing today, frequently difficult, at times frustrating, occasionally disappointing, but always challenging and rewarding. I urge you to welcome these challenges, and to seek diversity in your courses, your extra-curricular activities and your study partners. This morning, as you embark upon a life in the law, let me, on behalf of all my colleagues, wish you the very best.

### Nuclear Waste cont'd from p.1

conservation. Nuclear energy currently accounts for only 10 to 15% of Canadian energy needs. Orkin compared Canada to Denmark, which with a similar climate and lifestyle uses 60% less energy per capita.

Turning around the very powerful and ineffectively regulated nuclear industry will certainly not happen overnight, but Orkin believes the high social costs give him no choice but to keep trying.



# OF INTEREST TO ALL?

## CLUB ANNOUNCEMENT

The law Faculty's Procrastinator's Club has held its first meeting for last year's 1987-88 academic year, Thursday Sept. 29. A motion by the president, seconded by all the members in attendance, promptly dissolved the club's 1987-88 board and set a nomination meeting for Wednesday, Oct. 12. Interested participants are advised that the Procrastinator's Club meeting has been postponed until "sometime in November", an official close to the club remarked. Reason for the postponement was that there had not been enough interest in apathy this semester. On the agenda for the next meeting will be plans for the club's Orientation Week '88. Students willing to participate are asked to apply whenever.

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## NEW CIVILIAN FUND

The *Wabasso Fund* was created this past summer by the *Colleagues of Gaius and Justinien* and is charged with enhancing the status of the Civil law in Canadian jurisprudence. The *Wabasso Fund* will systematically edit all existing civilian case law in order to purge it of unacceptable references to, borrowings from, and acknowledgements of the Common law. To reduce cost and time, no reprinting of the library's texts will be attempted. Rather, interested students are invited to meet in the library Wednesday, Oct. 19th and bring indelible black markers. Defenders of the Faith will then proceed to strike out offending common law references contained in civil law judgments. The *Wabasso Fund*'s creators do admit that some unsightly blemishing of key cases will result but urge that this is only a cosmetic action and no substance will really be altered. Though the

final holding in some cases may be unreadable and/or unintelligible, the *Colleagues* observed: "*Duralex, sed lex*" or "the Law is hard but them's the breaks."

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## IMPORTANT LECTURE 'NOT TO BE MISSED'

Victoria Meikle [LL.B. (Tor); LL.M.(McG)] will give an inspirational talk relevant to all graduate students entitled "Simple and Effective Handling of Transatlantic Bureaucracy".

## Open Letter cont'd from p.3

It seems to me that, far too often, we only ask our teachers what the law is, rather than why it is that way, or whether the law might be different. Perhaps we feel more comfortable knowing something "certain". Perhaps we feel that the question of "why?" things are as they are should be left to theologians.

No. We can do much better.

It seems to me that when we resign ourselves to studying law in the same way that plumbers study plumbing, we will be doing a great disservice to ourselves, and to the future of Canada, at least insofar as we plan to make a difference in that future. The study of law is more than merely learning a trade. Law can be a powerful tool in shaping the political and social landscape of the future: We can explore all the possibilities when we are learning about the law. There is nothing necessary about what we have come to accept as "the way things are". We should be what Musil calls "possibilitarians".

The "possibilitarian" knows that law makes people better advocates for social change. The "possibilitarian" refuses to see the law as some necessary body of rules that we are stuck with, and to which we had better resign ourselves. During the study of law, he or she would be interested in understanding the process of making laws, and in understanding the ethical and policy choices that lie behind our laws. As students at McGill, we can be, and some might argue, ought to be this type of exploring, critical "possibilitarian". It is not enough in our studies to memorize how things actually turned out. After all, we should acknowledge and value the fact that things could very well have turned out differently. And given this huge realm of things that are possible, we must also know that we can have an effect on how our laws turn out. That thought is somewhat daunting, but we mustn't ever ignore it. We can use law to shape a better future for Canadian society, out of all possible futures.

Since summer has ended, I have ground to a halt in all my "leisure" reading. Musil's book remains largely unread, but I am glad to have been able to take his little pearl of wisdom: our study of law is a study of possibilities, and nothing less!! That, in contrast to much of what we learn, is exciting !!

Colin Baxter  
BCL - III



# THE FINAL ARBITER

## PART I

by Phillip R. Pike, B.C.L. III

In 1988, in the relatively cosmopolitan surroundings of cities such as Montréal, Toronto, or Vancouver, it is sometimes easy to take for granted the progress that Canada has made towards being a more tolerant and pluralistic society.

There are, however, compelling reasons why we should not take this progress for granted. Chief among them are the all too frequent incidents which remind us that we still have a long way to go towards becoming a society which is tolerant, one which is more open to and protective of, those who do not make up its majority or form part of its "mainstream"; those who for economic, religious, racial or political reasons are marginalized and disenfranchised from full and free participation in their own society.

One of the institutions which will be quite influential in shaping our society in the years to come is the Supreme Court of Canada. In order to add some perspective to the role which this institution has played in both hindering and aiding our progress as a society, we present, over the next few weeks, a series of excerpts from Chapter 7 of Jack Batten's book, *Judges*. (Toronto: Macmillan of Canada, 1986), pp. 278-335. Chapter 7 gives a brief history of the Supreme Court of Canada and a profile of some of its member. Batten has also highlighted some of the Court's darker moments.

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Of all Canada's major institutions, the Supreme Court of Canada is least known and understood by most Canadians. Its role has been not so much misinterpreted as ignored.

It is our court of last resort, the forum to which citizens and corporations and organi-

zations and governments with a grievance or an unresolvable question must turn for a final reading of their rights and status before the law. It deals in civil matters and criminal, in Québec's Civil Code and in the other provinces' common law. It possesses the potential to shift Canada's social directions and to influence its political drift. It is the arbiter of all that the federal and provincial governments set out to accomplish, and it holds the great and conclusive power of the referee.

All of which raises the question: why has the court been so little acknowledged until very recent years and so easily overlooked for the largest part of its history?

Much of the answer reaches back to the court's tentative beginnings at the time of Confederation. The British North America Act made no specific provision for a Supreme Court, apart from a passing mention in

cont'd on p.7

## Caption Contest#1

Submissions in French or English are accepted until  
Wed. October 12th, 1:00 pm. Just slide them under the Quid door.





## The Arbiter cont'd from p. 6

section 101 that Parliament had the power to provide for "the constitution, maintenance and organization of a general court of appeal for Canada". That left most Canadians who cared scratching their heads, even the Canadians who had drawn up the BNA Act. One of them, Sir John A. Macdonald, said of section 101 that "this provision is very important, very brief; and not a little obscure."

A hesitant Parliament finally got around to setting up the Supreme Court in a statute that was passed on April 5, 1875. It was a shaky start, made all the more tenuous by a series of private members' bills introduced over the following decades seeking to abolish the court or to restrict its jurisdiction. The bills failed in passage, but the court's stature, already low-grade, was hardly enhanced.

The reason for the initial reluctance isn't hard to figure out. Superior courts were already established in the provinces, and the Judicial Committee of the Privy Council overseas in London seemed to be serving splendidly as a court of final appeal for Canadian cases. With that apparatus in place, many Canadians wondered out loud if there was a need for yet another court. The provincial governments had an additional motivation for reacting nervously to the existence of a Supreme Court in Ottawa. The court was the creature of the federal government, and it might therefore be expected to produce rulings in the feds' favour and at the expense of the provinces. Or so the provinces feared.

It didn't help the court's prestige that in its first few decades, many men who came to sit on it either were not in the prime of their careers or didn't have much in the way of careers at the bar or on the bench in the first place. Part of the explanation for their presence on the court lay in politics. All of the early prime ministers used the court as a final resting-place for pals and old pals who had well served the party in power at the particular moment of appointment. In fact, the taint of party politics, though it grew much less pronounced with the years, remained a problem for the court and its respectability until the 1960's.

The other problem - ineptitude or laziness or both - may have been even more severe. Some of the earliest justices, though they appreciated the title and perks that went with their positions on the highest court in the land, didn't appear to have their hearts in the job. Sir Alexander Mackenzie, the prime minister under whose government the Supreme Court came into existence, was of two minds, both doubtful, on the value of the court's opening sitting. He wondered about the dedication that the first justices, including the Hons. Taschereau, Richards, Fournier, and Strong, brought to their work, and he expressed his feelings in a letter written immediately after the court ended the first sitting.

"The Supreme Court Session passed off all right," he wrote to Edward Blake, the Toronto lawyer and Liberal. "They rose on Saturday at 1-30 and Taschereau was off on the train at 2. He tried on Friday evening to get the Court to sit until 10 p.m. to enable him to leave at 10-50. Richards refused and Taschereau told him angrily that he would be avenged for that. Fournier left on Monday. Strong is very angry and insists on both men doing *some* work. Neither of the Frenchmen opened their mouths from first to last but both *looked* very wise which probably had the same effect on the audience as if they were wise."

Henry Strong, the justice who was angry at Taschereau and Fournier, spent most of his tenure on the court in a bad temper. Since he sat for twenty-seven years as a Supreme Court judge, the last ten as chief justice, his irascible ways drove a couple of generations of colleagues to distraction. Strong was often at odds with this fellow judges; on one occasion he wrote to the federal Minister of Justice complaining of the "extreme senil irritability" of his brother, Mr. Justice John Gwynne. Many observers of the court regarded Strong's remark as the *ne plus ultra* of the pot calling the kettle black.

Strong took regular umbrage at almost everyone who worked at the Supreme Court or appeared before it. He was particularly bullying to one of the court's messengers, a poor old chap whose lame leg and partial blindness made him an easy target. And Strong's rudeness to counsel frequently threatened to break into open warfare. One clash in the spring of 1898 became infamous among the bar of the day. It came about when the court's list of

cases to be heard unexpectedly collapsed, leaving an appeal involving counsel from Toronto and Chatham, Ontario, next up for hearing. Strong announced that the case must proceed on the following day. That gave counsel, all of whom were in their offices in Toronto and Chatham, much less than twenty-four hours to find their way to Ottawa. None of them made it, whereupon Strong peremptorily dismissed the appeal and rejected a motion to rehear the case. A terrific and predictable howl went up from the bar. It fell on deaf ears.

But that encounter didn't represent the low point in Strong's dealings with counsel. The nadir was struck in 1901 when a barrister laid an assault charge against the Chief Justice. The two men had engaged in a brisk discussion in the Supreme Court's corridor over the notion of Canadian jurists wearing wigs in the English tradition - Strong opposed such an innovation - and when the talk escalated, Strong let fly with several oaths and a punch to the barrister's head. If the early Supreme Court sometimes took on the quarrelsome giddiness of a retirement villa for elderly eccentrics, then Henry Strong was its grouchiest and most rigid inmate.

(To be continued)

## LAW CLERKS to the Chief Judge of the Tax Court of Canada

Applications are invited for the position of law clerk to the Chief Judge of the Tax Court of Canada

### PLACE OF WORK

Tax Court of Canada, Ottawa

### PERIOD OF EMPLOYMENT

Flexible for articling students of 1989-90. By agreement with the Chief Judge, the period of employment may be extended for an additional period not exceeding twelve (12) months.

### SALARY AND BENEFITS

\$25,500 per year. Law clerks are not entitled

cont'd on p.8



## Law Clerks cont'd from p. 7

to superannuation benefits or other Public Service benefits. Reasonable expenses may be authorized in accordance with Treasury Board guidelines for travel from any point in Canada to Ottawa and return, together with certain expenses incurred for moving personal effects.

### DUTIES

Under the direction of the Chief Judge, the law clerks prepare summaries of appeals coming before the Court, research points of law, prepare memoranda of law and generally assist the Judges in the work of the Court.

### QUALIFICATIONS

- (1) Graduation from a recognized Canadian Law school;
- (2) Proficiency in both official languages is not required but would be an asset.

### NOTE

Certain Law societies recognize the service of law clerks as fulfilling all or part of their articling requirements. However, candidates should confirm this with the law society in the jurisdiction in which they will seek admission to the practice.

### HOW TO APPLY

All clerkship applications must be received at the Court by March 31, 1989. Candidates should forward:

- (1) a curriculum vitae;
- (2) official transcripts of all marks obtained in all post-secondary studies, including law school; and
- (3) a list of the four (4) persons, including the Dean of Law, who will forward references.

**N.B.** Candidates are responsible for ensuring their applications are complete and that all documentation, including the four (4) letters of reference, have been received at the

Court by March 31, 1989. Incomplete applications cannot be considered.

All documentation should be addressed to :

Personnel Services  
Tax Court of Canada  
3rd Floor, Centennial Towers  
200 Kent Street  
Ottawa, Ontario  
K1A 0M1

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## 1989 SUMMER CLERKSHIPS IN AUSTRALIA

The Canadian Law Institute of the Pacific Rim is looking for Canadian students in all years interested in spending the summer in law firm in Australia. Each student chosen for these clerkships should receive return air fare and about \$200.00 weekly to cover living expenses. In past years, the periods of work varied, but the amount of remuneration was usually not sufficient to provide much opportunity to save for future law school expenses. Interested students should submit their transcript and résumés to Associate Dean Jutras as soon as possible.

## Scholarships

### GUIDELINES FOR APPLICATION TO AN SSHRC DOCTORAL FELLOWSHIP

#### FOR TENURE IN 1989-9

**Value:** To be announced (\$12,240 in 1988-89).

**Deadline:** For applicants registered full-time at McGill University, **there is a Fellowships Office deadline of November 11th, consult your graduate secretary for your departmental deadline.** Applicants not currently registered at McGill must ensure that their applications reach Ottawa by November 15.

**Announcement of Results:** April.

**Eligibility:** The competition is open to persons who:

- 1) are Canadian citizens or permanent resident of Canada, living in Canada at the time of application.
- 2) will be pursuing full-time studies leading to the Ph.D. or its equivalent.
- 3) at the time of taking up the award will have completed one year of Doctoral study, or who hold a Master's degree.
- 4) are candidates for the LL.M. degree provided they intend to pursue an academic career.

**Renewals:** Renewal for a 2nd or 3rd year of doctoral study is granted on evidence of satisfactory progress. An award holder seeking continuing support for a 4th year of

full-time doctoral study must enter the competition as if applying for a first award, irrespective of the number of SSHRC fellowships previously held.

**Program of Work:** It is always preferable to have the proposed research project developed in conjunction with a faculty member. This is not always feasible given the time frame. The research project should be clear, concise and avoid technical language. A single project should be described, even though it may change substantially before it is actually carried out. The research proposal should never be described as a series of options.

**Transcript:** To apply for transcripts, students registered at McGill in the fall of 1988 should complete the request form available from their departments and return it with their \$2.00 to their departmental secretary by **Friday, October 14, 1988.** Please note that from now on, only one transcript will be supplied for all external competitions (eg. FCAR, SSHRC, NSERC) at a cost of \$2.00. It will be sent directly to the student's department and it will be the responsibility of the departmental secretaries to keep the original on file and then to make copies for all external competitions as required. This procedure does not apply to the McGill Major Awards competition. If the original is given away, the student will be charged \$4.00 for any subsequent transcripts.

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**Scholarships**  
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**THE CANADIAN INSTITUTE FOR  
ADVANCED LEGAL STUDIES**

**SCHOLARSHIPS**

Full scholarships for Graduate Studies in Law at Cambridge University are being offered for the 1989-90 academic year. These scholarships will be awarded to outstanding students registered in the 1988/89 Bar Admission Courses, in their articling year or who will be graduating in law from a Canadian University in 1989.

Each scholarship is for one year and will cover tuition fees at Cambridge, a monthly contribution towards living costs, as well as travel allowance for air transportation from residence in Canada and return.

**APPLICATIONS MUST BE RECEIVED  
BY DECEMBER 31, 1988.**

(There is no formal application form.)

Applicants should ask not more than three (3) persons to write letters of reference to the Scholarship Secretary.

Awards of scholarships are conditional upon successful graduation by the applicant from a law school in Canada with the degree LL.B. (or equivalent) on or before June 1, 1989, and upon acceptance of the applicant by Cambridge University for the 1989-90 academic year. All awards will be made by a Selection Committee appointed by the Canadian Institute for Advanced Legal Studies and whose decisions shall be final.

The decisions of the Selection Committee will be made not later than March 31, 1989 and the successful applicants will be notified forthwith.

Applicant must apply in writing to :

Boris Krivy, Esq., Q.C.

Scholarship Secretary

Canadian Institute for Advanced Legal Studies

Osgoode Hall

Toronto, Ontario

M5H 2N5

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# SportsCorner

## Le coin des Sportifs

### This week, a special presentation

## CANADIAN SPORTS THREATENED

## UNDER FREE TRADE AGREEMENT?

From: Jacques Strappe, a sports fan who cares about Canada's future.

Recent events on the international scene demonstrate the need to re-examine the Canada-U.S.A. Free Trade Agreement (FTA), particularly its commitment to reciprocity in the area of sports. Indeed, if there was ever a time for us to re-think our trade plans and mobilize ourselves athletically, it is now. The race has begun.

The storm of controversy finds its source in a little known article in the FTA: Article 23,957. This Article inconspicuously wedged between Articles 23,956 and 23,958, provides for absolute reciprocity between American and Canadian sports industries. To date, it is the only article in the FTA which has received the force of law. It reads:

Art 23,957: Liberalized Trade in Sports

1. In the interest of expanding mutually enjoyable sports entertainment in Canada and the United States, and of providing balanced and equitable opportunities to athletes and "athletic supporters", the Parties shall actively strive to achieve, as quickly as possible, the liberalization of exchange of pre-

washed athletic equipment, superheroes and any awards, records, or medals earned thereby.

2. In return for access to the substantial market of the United States, Canada agrees that all Canadian beer and ale products sold at Canadian sports event shall be substituted by like products from the United States.

Although hailed as "sunny weather" for the future of sports in Canada, clouds on the FTA horizon started forming a few months ago when Canada lost its hockey superstar, The Great Wayne Gretzky, to the L.A. Kings. The official reason given for the trade was Wayne's divorce from Peter Pocklington and subsequent marriage to Janet Jones, a willowy American actress who is long on body and short on talent. But the timing of the trade suggests otherwise. It coincides rather uncannily with the signing of the FTA and the enactment of Article 23,957. Coincidence? You decide.

A more recent event underscores the nefarious impact of the FTA. Remember Ben Johnson? He's still living in Canada but something very dear to him and to the rest of Canada no longer is - his Olympic Gold

Medal. And who has it? An American athlete by the name of Carl Lewis! Coincidence? You decide. Sure, there has been some incidental talk about anabolic steroids. But is this really the issue?

The second paragraph of Article 23,957 is equally disturbing. It calls for the exclusive sale of American beer at Canadian sports events. It has become a national past-time in this country to get inebriated while supporting our favourite athletes. But will this be possible on that foul-tasting, watered-down solution known as American beer? Recent studies show that most Canadians have to down at least 12 American beers before they even begin to feel a "buzz". By this time most sports events are over. I think it's time we asked ourselves whether we can afford to see our future, among other things, run down the drain while drinking American beer.

Far from broadening our athletic horizons the FAT tells us not to be seduced by Monday Night Football. Indeed, if we are to save any of Canada's athletic heritage (including five-pin bowling) we must make a team effort to defeat this noxious legislation. Just remember, it's not over until the Fat Lady sings.

I remain athletically yours,  
Jacques Strappe.